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No end to the JFK case

WE HAD better face the fact that we will never know for sure whether President John Kennedy was killed by a lone assassin named Lee Harvey Oswald or whether his murder was part of a conspiracy.

The reason we will never know is that the Warren Commission botched the job of finding out the truth while the evidence was still relatively fresh. They botched the job because commissioners placed a higher priority on patriotism than on truth.

I was a law clerk with the U.S. Supreme Court when Earl Warren, chief justice of the United States, agreed to head the commission of inquiry.

It was shortly after the Cuban missile crisis. Tensions were still high between the superpowers. Warren explained to Justice Arthur Goldberg, for whom I was clerking, why he had accepted the thankless task.

Goldberg told me Warren had said it was important to world peace and domestic tranquillity that the American public believe that neither the Soviet Union nor Cuba was involved in this terrible crime. Otherwise, Warren said, there would be enormous pressure to retaliate against them and American communists.

I am not suggesting, nor do I believe, that Warren approached his task with a closed mind. Had the evidence clearly showed communist complicity, he would not have shrunk from the responsibility to report it.

But Warren approached his task with a clear predisposition: He hoped and expected to find a lone assassin. That predisposition, coupled with what we now know about how the CIA and FBI kept information from the commissioners, made an objective assessment impossible.

Remember, 1963 was still a time of political naivete about our intelligence-gathering agencies. I doubt that Warren had any idea of the extent of deception and coverups that victimized the commission.

The search for truth was compromised by a series of agendas — some benevolent, others malevolent. These were agendas of people less interested in finding out what happened than in serving other interests.

Most particularly, the FBI and CIA were more interested in covering

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up their own blunders and in protecting their sources than in seeing the whole truth emerge. Discovering the objective truth in any crime is a formidable task, especially when it involves strangers and when it is not solved within minutes of its occurrence.

To make matters even worse, the refusal of the government to disclose relevant files for nearly 30 years has made it impossible for historians to arrive at independent decisions about the truth. It has encouraged conspiracy theorists to spin imaginative webs.

Now some of the files have been opened, and it will take time to assess their massive — if less than complete — disclosures. I doubt whether they will provide definitive answers, because I do not believe that the data exists which would support such answers.

The best we can hope for is new information which, in combination with what we have already seen, will allow a more educated assessment of the probabilities.

On the basis of everything I have seen and read, I believe it more likely than not that Lee Harvey Oswald acted alone.

BUT I am far from certain. I would not be surprised to learn he was part of a conspiracy. Nor would I be surprised to learn there were plans afoot — by organized crime, by Castro or perhaps others — to assassinate President Kennedy, but that Oswald acted independently, or perhaps was influenced by these plans but still acted alone.

There may be gray areas between the pure lone assassin and pure conspiracy theories.

Several points are crystal clear.

First, the Warren Commission's conclusions should be given little weight, because the investigation was flawed and its sources deceptive, and its members approached their task with a predisposition.

Second, many of the conspiracy theories should be given some little weight for some of the same reasons.

Third, anyone who says the case is closed — as does the author of a recent book by that title — should not be trusted.

This case will never be closed to the satisfaction of those who insist only in the whole truth and nothing but the truth. I guess that is part of the American tradition of healthy skepticism. After all, we never really closed the books on Judge Crater, Jimmy Hoffa, Amelia Earhart, the Rosenbergs and the Lindbergh kidnapping.

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